

Supreme Court, U. S.

FILED

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MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

No.

77-1525

ROBERT R. KAUFMAN,

Petitioner,

-against-

ASSOCIATION OF THE BAR OF THE CITY OF
NEW YORK,

Respondent.

SUPPLEMENTAL APPENDIX

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**ORDER OF THE APPELLATE DIVISION FIRST
DEPARTMENT MADE FEBRUARY 3, 1966**

At a term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York, on the 3rd day of February, 1966.

Present—Hon. Bernard Botein, Presiding Justice,
Charles D. Breitel,
Harold A. Stevens,
Samuel W. Eager,
Aron Steuer, Justices.

In the Matter
of
Robert R. Kaufman,
An Attorney.

The Association of the Bar of the City of New York, by Eric Nightingale, Esq., its attorney, having presented to this Court on the 12th day of June, 1962, a petition containing charges of professional misconduct against the above-named respondent, Robert R. Kaufman, who was admitted to practice as an attorney and counselor-at-law in the State of New York, on the 2nd day of February, 1938, at a term of the Appellate Division of the Supreme Court, Second Judicial Department, and having petitioned the Court to take such action upon such charges as in the judgment of said Court justice may require; and the respondent having appeared herein by his attorney, Rudolph Stand, Esq., and having interposed an answer to said petition, duly verified the 25th day of June, 1962, and the Court having duly made and entered an order on the 12th day of July, 1962, appointing Theodore R. Kup-

ferman, Esq., as Referee herein to take testimony in regard to said charges and to report to this Court his opinion thereon; and thereafter and on the 17th day of November, 1964, The Association of the Bar of the City of New York, having presented to this Court a supplemental petition containing additional charges of professional misconduct against the above-named respondent and having petitioned the Court to take such action upon such additional charges as in the judgment of said Court justice may require, and the respondent having appeared herein by his attorney, H. Elliot Wales, Esq., and having interposed an answer to said supplemental petition, duly verified the 18th day of November, 1964, and the Court having duly made and entered an order on the 1st day of December, 1964, appointing Theodore R. Kupferman, Esq., as Referee herein to take testimony in regard to said additional charges and to report to this Court his opinion thereon; and thereafter and on the 18th day of February, 1965, an order of this Court having been made and entered relieving Theodore R. Kupferman, Esq., as Referee herein, which appointment was contained in the orders of this Court entered on July 12, 1962 and December 1, 1964, and appointing Samuel C. Coleman, Esq., as Referee in the place and stead of Theodore R. Kupferman, Esq., and a stipulation having been entered into between the attorneys for the respective parties, dated January 25, 1965, that the record of the proceedings held to date before Theodore R. Kupferman, Esq., Referee, including the testimony of all witnesses, shall be binding in the same manner as if same had taken place before the new Referee; and the hearing, pursuant to said order of reference having been duly continued before Referee Samuel C. Coleman and the said Referee having duly heard the testimony and proofs tendered by the parties hereto, and having thereafter rendered his report thereon to this Court, which report was dated the 24th day of September, 1965, and was filed in the office of the Clerk of this Court on the 1st day of October, 1965;

And the petitioner thereafter and on the 7th day of December, 1965, having moved for an order confirming the Referee's report and adjudging the respondent guilty of professional misconduct and that the Court take such action herein as it might deem just and proper.

Now, upon reading the petition of The Association of the Bar of the City of New York, verified the 31st day of May, 1962, the affidavit of Eric Nightingale, Esq., annexed thereto, sworn to the 29th day of May, 1962, the notice of presentation of said petition, dated the 31st day of May, 1962, with proof of due service thereof upon the respondent, the answer of the respondent to said petition, verified the 25th day of June, 1962, the order of this Court, dated the 12th day of July, 1962, appointing Theodore R. Kupferman, Esq., as Referee herein, all of which papers were duly filed in the office of the Clerk of this Court on the 12th day of July, 1962, the supplemental petition of The Association of the Bar of the City of New York, verified the 4th day of September, 1964, the affidavit of John G. Bonomi, Esq., annexed thereto, sworn to the 3rd day of September, 1964, the notice of presentation of said supplemental petition, dated the 4th day of September, 1964, with proof of due service thereof upon the respondent, the answer of the respondent to said supplemental petition, verified the 16th day of November, 1964, the order of this Court, dated the 1st day of December, 1964, appointing Theodore R. Kupferman, Esq., as Referee herein, all of which papers were duly filed in the office of the Clerk of this Court on the 1st day of December, 1964, the order of this Court entered on February 18, 1965, relieving Theodore R. Kupferman, Esq., as Referee herein, and appointing Samuel C. Coleman, Esq., as Referee in the place and stead of Theodore R. Kupferman, Esq., the stipulation of the attorneys for the respective parties, dated January 25, 1965, the report of Samuel C. Coleman, Esq., the Referee herein, dated the 24th day of September, 1965, together with the testimony taken by him and the exhibits

offered in evidence, which were filed in the office of the Clerk of this Court on the 1st day of October, 1965; and upon reading and filing the notice of motion for an order confirming the report of the Referee and adjudging the respondent guilty of professional misconduct, dated the 26th day of October, 1965, with proof of due service thereof, and after hearing Mr. John G. Bonomi for the motion, and Mr. H. Elliot Wales opposed, and due deliberation having been had thereon; and the Court having unanimously found and decided that the respondent has been guilty of professional misconduct in his office of attorney and counselor-at-law, it is hereby unanimously

Ordered that the report of Samuel C. Coleman, Esq., the Referee herein, filed in the office of the Clerk of this Court on the 1st day of October, 1965, be, and the same hereby is, confirmed; and it is further unanimously

Ordered that the said Robert R. Kaufman be and he hereby is disbarred from practice as an attorney and counselor-at-law in the State of New York effective March 3, 1966, and it is further unanimously

Ordered that the name of said Robert R. Kaufman be struck from the roll of attorneys and counselors-at-law in the State of New York effective March 3, 1966; and it is further unanimously

Ordered that the said Robert R. Kaufman be and he hereby is commanded to desist and refrain from the practice of the law in any form, either as principal or agent, clerk or employee of another, effective March 3, 1966; and it is further unanimously

Ordered that the said Robert R. Kaufman be and he hereby is forbidden to appear as an attorney or counselor-at-law before any court, judge, justice, board, commission or other public authority, effective March 3, 1966; and is further unanimously

Ordered that the said Robert R. Kaufman be and he hereby is forbidden to give to another an opinion as to the

law or its application or any advice in relation thereto effective March 3, 1966.

ENTER:

HYMAN W. GAMSO

Clerk

**APPELLATE DIVISION—SUPREME COURT—FIRST
DEPARTMENT STATE OF NEW YORK**

I, HYMAN W. GAMSO, Clerk of the Appellate Division of the Supreme Court, First Judicial Department, do hereby certify that I have compared this copy with the original thereof filed in said office on FEB 3 1966 and that the same is a correct transcript thereof, and of the whole of said original.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of this Court on FEB 3 1966
Hyman W. Gamso Clerk

ORDER DISMISSING COMPLAINT

*Robert R. Kaufman v. Association
of the Bar of the City of New York
77 Civ. 3731 (CMM)*

Plaintiff has moved for a preliminary injunction. Defendant countermoves to dismiss the complaint on several grounds, including lack of subject matter jurisdiction.

Plaintiff predicates his action on 42 U.S.C. §1983, alleging that he was denied procedural due process and equal protection during state disbarment proceedings eleven years ago. The constitutional infirmities he alleges, however, were all raised in earlier proceedings and rejected in the state courts, and certiorari was denied. *Kaufman v. Association of the Bar of the City of New York*, 389 U.S. 1048 (1968) and 396 U.S. 905 (1969).

It has been held that a section 1983 action is not available under these circumstances to collaterally review the state disbarment proceedings. *Grossgold v. Supreme Court of Illinois*, 557 F.2d 122, 124 (7th Cir. 1977); *Doe v. Pringle*, 550 F.2d 596 (10th Cir. 1976); *Ginger v. Circuit Court for the County of Wayne*, 372 F.2d 621 (6th Cir.), cert. denied, 387 U.S. 935 (1967). See also *Tang v. Appellate Division*, 487 F.2d 138 (2d Cir. (1973), cert. denied, 416 U.S. 906 (1974).

In view of our conclusion that the court lacks subject matter jurisdiction, we do not address the other grounds raised by defendant or plaintiff's motion for a preliminary injunction.

Accordingly, the complaint is dismissed.
So ordered.

Dated: New York, N.Y.
October 19, 1977

s/ Charles M. Metzger
U.S.D.J.

ORDER GRANTING MOTION DATED OCTOBER 19, 1977

October 19, 1977 Motion granted. See memorandum on plaintiff's motion for a preliminary injunction.

So ordered
Charles M. Metzger
U.S.D.J.

ORDER OF SPECIAL TERM, PART VII, SUPREME COURT OF THE STATE OF NEW YORK DATED MAY 1969

At a Special Term, Part VII of the Supreme Court of the State of New York, held in and for the County of New York, at 60 Centre Street in the Borough of Manhattan, City of New York on May 1969.

PRESENT: HON. FREDERICK BACKER, Justice.

In re Application of Leo Goldberg,
Assignee of part of the claim of Robert R. Kaufman, and
Gas Check Corporation for payment of award for fixture
damage, Parcel No. 28, on the damage map and in the
final decree of the Supreme Court, in Proceeding to ac-
quire title to real property required for Manhattan Civic
Center Area, etc., in the Borough of Manhattan, City of
New York.

A motion having been made for an order directing the
Comptroller of the City of New York to pay to Leo
Goldberg the sum of \$1,150.00 principal with interest
from July 9th, 1965, the award made herein to Gas Check
Corporation for fixture damages by reason of the acqui-
sition of title by The City of New York in the above-
mentioned proceeding, to the lands and premises known
therein as Damage Parcel No. 28 and said motion having
duly come on to be heard on May 6, 1969.

NOW, on reading and filing the petition of Leo
Goldberg, verified the 3rd day of March, 1969, and the
notice of motion, with proof of due service thereof, and on
all the papers and proceedings heretofore had herein; and,
after hearing Philip Zichello, Esq., attorney for the

petitioner, in support of said motion, J. Lee Rankin, Esq., Corporation Counsel of The City of New York, appearing by Harold J. Lynch, Esq., Assistant Corporation Counsel, in opposition thereto, Bernard W. Coblentz, Esq., attorney for the Gas Check Corporation, in opposition thereto, and Robert R. Kaufman, the President of Gas Check Corporation appearing for himself, also in opposition to said motion, and the facts in the matter having been submitted to the Court, and the parties having stipulated in open Court, and due deliberation having been had thereon and upon filing the opinion of the Court, now

On motion of Philip Zichello, Attorney for the petitioner, it is

ORDERED, that the motion be and the same hereby is in all respects granted, and it is further

ORDERED, that the Comptroller of the City of New York withdraw and cancel the warrants totalling \$4,969.24 payable to the Gas Check Corporation, now extant and it is further

ORDERED, that the Comptroller of the City of New York on behalf of The City of New York, pay the aforesaid award as follows: first

- (a) To the City of New York for payment to date of its prior rent lien of \$1,395.00, and second
- (b) To Bernard W. Coblentz, Esq., in full payment of his lien of \$544.00 for attorney's fees, and
- (c) To Leo Goldberg as assignee of Gas Check Corporation the sum of \$1,150.00, and lawful interest, and
- (d) The balance, if any, to the Gas Check Corporation.

ENTER,

s/ Frederick Backer
J.S.C.

(FREDERICK BACKER)